

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION BY THE PUBLIC SERVICE)	
COMMISSION OF THE ENVIRONMENTAL)	
SURCHARGE MECHANISM OF LOUISVILLE GAS)	CASE NO. 95-455
AND ELECTRIC COMPANY AS BILLED FROM)	
MAY 1, 1995 TO OCTOBER 31, 1995)	

O R D E R

On October 17, 1995, the Commission initiated its first six-month review of Louisville Gas and Electric Company's ("LG&E") environmental surcharge as billed to customers from May 1, 1995 through October 31, 1995.¹ Pursuant to KRS 278.183(3) the Commission must review, at six-month intervals, the past operations of the surcharge and, after hearing, disallow any surcharge amounts that are not just and reasonable and reconcile past surcharge collections with actual costs recoverable.

In anticipation that all parties in Case No. 94-332² would desire to participate in this proceeding, the Attorney General's Office ("AG"); the Kentucky Industrial Utility Customers ("KIUC"); Metro Human Needs Alliance, Inc., People Organized and Working for Energy Reform and Anna Shed; and Jefferson County, Kentucky were

¹ As LG&E's surcharge is billed on a two-month lag, the amounts billed from May 1995 through October 1995 are based on costs incurred from March 1995 through August 1995.

² Case No. 94-332, The Application of Louisville Gas and Electric Company for Approval of Compliance Plan and to Assess a Surcharge Pursuant to KRS 278.183 to Recover Costs of Compliance with Environmental Requirements for Coal Combustion Wastes and By-Products, final Order dated April 6, 1995.

deemed parties to this proceeding. A public hearing was held on January 11, 1996. All information requested at the public hearing has been filed.

FRANKLIN CIRCUIT COURT DECISION

On July 28, 1995, the Franklin Circuit Court entered a Judgment in the appeal of Case No. 93-465³ establishing an environmental surcharge for the Kentucky Utilities Company ("KU"). The Court upheld the constitutionality of KRS 278.183 but vacated that portion of the Commission's Order allowing KU to recover the current cost of environmental expenditures incurred before January 1, 1993, and remanded the case to the Commission. That Judgment has been appealed to the Kentucky Court of Appeals by KIUC, the AG, the Commission, and others.

The AG and KIUC argue that because the issues in KU's surcharge case are identical to those in LG&E's surcharge case, the Commission should immediately reduce LG&E's environmental surcharge to exclude the current costs of all pre-1993 environmental compliance expenditures. They urge the Commission to not wait until the exhaustion of appeals in Case No. 93-465 to implement the Judgment, claiming that it is the only judicial ruling on KRS 278.183 and sound public policy dictates implementation during the appeal process.

³ Case No. 93-465, The Application of Kentucky Utilities Company to Assess a Surcharge Under KRS 278.183 to Recover Costs of Compliance with Environmental Requirements for Coal Combustion Wastes and By-Products.

LG&E states that the Commission's April 6, 1995 Order in Case No. 94-332 establishing a surcharge for LG&E has not been overturned, vacated, or reversed. Thus, the Commission has no authority to now vacate that Order by excluding the current cost of pre-1993 environmental expenditures. LG&E also argues that since the Judgment in the KU case has been appealed to the Court of Appeals, it is neither good practice nor common sense for the Commission to reverse itself on an interim basis.

The Commission finds that neither good law nor good policy supports implementing the Circuit Court Judgment in the KU case while it is on review at the Court of Appeals. That Judgment is not final and has not been implemented for KU. In the event the Judgment is not reversed, it can be implemented only after Case No. 94-332 is remanded to the Commission. In addition, sound public policy requires the Commission to recognize the uncertainties that exist during the appeal process. It would be inefficient, costly and confusing to ratepayers to now require refunds of surcharge revenues that may have to be recollected from ratepayers. The most efficient and reasonable course of action is to require all surcharge revenues collected from the date of this Order be subject to refund. By this action, the ratepayers and LG&E are adequately protected.

SURCHARGE ADJUSTMENT

LG&E determined that for the six-month review period, it over-recovered its environmental costs by \$345,994.⁴ LG&E proposed to refund the over-recovery by a credit to its surcharge during the six-month period beginning on May 1, 1996.⁵ None of the parties identified any errors with LG&E's calculations.

LG&E stated that it modified ES Form 4.0 to effectuate the Commission's objective in Case No. 94-332 to treat the environmental surcharge billing factor ("billing factor") as if it were being applied to both retail and wholesale customers. LG&E calculated the environmental surcharge revenue amount by applying the billing factor to the appropriate month's retail and wholesale revenues.⁶ The resulting amount was compared to the corresponding surcharge revenue requirement to determine the amount of over- or under-recovery for the month.

⁴ Response to the Commission's Order dated October 17, 1995, Item 1, and revisions filed December 6, 1995 and January 24, 1996. In the initial response to Item 1, LG&E calculated an over-recovery of \$261,361, using a modified ES Form 4.0. However, this amount did not reflect the entire billing period under review. LG&E revised its calculations, indicating an over-recovery of \$345,994.

⁵ In the response to Item 1 of the Commission's October 17, 1995 Order, LG&E calculated a negative monthly correction factor of .0948 percent to be spread over the six-month period beginning May 1, 1996. LG&E did not calculate a negative monthly correction factor to reflect the revised over-recovery submitted on December 6, 1995 and January 24, 1996.

⁶ Revised ES Form 4.0 filed on December 6, 1995 shows a combined retail and wholesale environmental surcharge revenue amount. The January 24, 1996 revision segregated this revenue figure into separate retail and wholesale components.

In Case No. 94-332, the Commission accepted LG&E's proposal for an over- and under-recovery mechanism modeled on LG&E's gas supply clause and required supporting information to be filed monthly and semi-annually on designated forms. LG&E subsequently modified ES Forms 3.0 and 4.0 without Commission approval. Consequently, the appropriate calculation of an under- or over-recovery of surcharge revenues has been the subject of information requests and an informal conference.

A surcharge over- or under-recovery exists only when the amount that should have been billed to retail customers differs from the amount actually billed to retail customers. The Commission finds that LG&E's approach to determining its over- and under-recovery is inadequate and modifications are necessary. LG&E's calculations lack a determination of what should have been billed and rely on a calculated billed amount rather than actual billings. LG&E's approach also makes assumptions about the amounts billed to wholesale customers since there are no identifiable wholesale surcharge revenues due to wholesale sales being priced in a competitive market. LG&E can only make a calculation based on the wholesale revenues and the billing factor.

On a monthly basis, LG&E should file ES Form 3.0 as originally prescribed in the Commission's April 6, 1995 Order in Case No. 94-332. Wholesale revenues should be reported in total, without imputing any environmental surcharge revenue. Retail environmental surcharge revenues should be reported as actually billed, not as calculated.

During the six-month review, LG&E should file ES Form 4.0 modified to include a retail surcharge amount that should have been billed to retail customers. The most reasonable method to calculate this amount is to multiply each review month's total gross environmental surcharge revenue requirement, $E(m)$, by a revenue ratio of the retail revenues divided by the total company revenues, for each expense month. The product of $E(m)$ and the revenue ratio will be referred to as the "Kentucky Retail Surcharge Revenue Allowed," which will then be compared to the actual retail surcharge revenues billed. The difference between the two will be the monthly over- or under-recovery.

LG&E's monthly retail over- or under-recovery will have to be converted to a total company amount since $E(m)$ is calculated on a total company basis. The Commission will accept as reasonable LG&E's assumption that wholesale surcharge revenues will be over- or under-recovered in a manner that corresponds to the retail surcharge revenues. Converting from retail to total company will be done by applying a gross-up factor calculated by dividing the total company revenues by the retail revenues for the applicable billing month.

The Commission finds this approach to be more appropriate in calculating the over- or under-recovery of LG&E's environmental surcharge. Using this approach for the six-month review period, the Commission has calculated LG&E's over-recovery to be \$358,584.⁷

⁷ See Revised ES Form 4.0, attached hereto as Appendix A.

The Commission will accept LG&E's proposal to refund the over-recovery by a surcharge credit during the six-month period commencing May 1, 1996. This will result in a negative surcharge correction factor of .13 percent. Furthermore, the Commission finds that modifying the E(m) calculation, to move from total company to retail only, should be investigated in detail in LG&E's next six-month review.

IT IS THEREFORE ORDERED that:

i. LG&E shall apply a negative correction factor of .13 percent to the environmental surcharge billing factors over the next six months, beginning on May 1, 1996.

ii. LG&E's proposed correction factor is denied.

iii. All environmental surcharge revenues collected from the date of this Order shall be subject to refund, pending the final determination of the Commission's Orders in Case No. 94-332. LG&E shall maintain its records in such manner as will enable it, the Commission, or any of its customers, to determine the amounts to be refunded and to whom due in the event a refund is ordered by the Commission.

iv. LG&E shall file monthly ES Form 3.0 as set forth in Appendix B to the Commission's April 6, 1995 Order in Case No. 94-332.

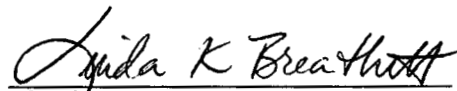
v. LG&E shall file the revised ES Form 4.0 as set forth in Appendix A hereto in lieu of ES Form 4.0 authorized in Case No. 94-332.

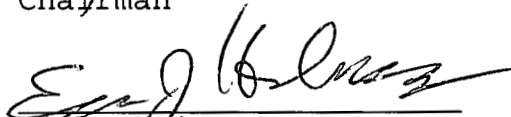
6. In its next six month surcharge review case LG&E shall file testimony on the issue of calculating E(m) on a retail only basis.

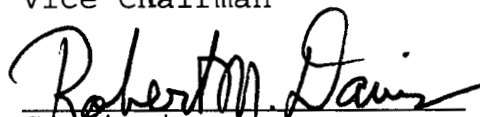
7. LG&E shall incorporate all revisions made in this Order in future six-month review proceedings.

Done at Frankfort, Kentucky, this 10th day of April, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION
IN CASE NO. 95-455 DATED April 10, 1996

LOUISVILLE GAS & ELECTRIC COMPANY - ENVIRONMENTAL SURCHARGE - ES FORM 4.0

Page 1

SIX MONTH REVIEW

RECAP OF BILLING FACTORS AND REVENUE

For the Period March 1995 through August 1995

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
	E (m)	ADJ 12-MO AV TOTAL COMPANY	EXP MONTH KY RETAIL	ENVIRON SURCHARGE MONTHLY BILLING		KY RETAIL SURCHARGE	KY RETAIL SURCHARGE	KY RETAIL OVER/ (UNDER)	OVER/ (UNDER) COLLECTION	TOTAL COMPANY OVER/ (UNDER)
CURRENT	GROSS ENVIRON	REVENUE	REVENUE	FACTOR	ADJUSTED	ALLOWED	AS BILLED	COLLECTION	GROSS-UP FACTOR	COLLECTION
EXPENSE	REVENUE	[INCL FAC, EXCL ES]	[INCL FAC, EXCL ES]	BILLED			REVENUE	COLLECTION		
MONTH	REQUIREMENT	Note 1	Note 1	Note 2	Note 2	Note 3	Note 4		Note 5	Note 6
MAR 1995	172,627	45,894,358	36,835,891							
APR 1995	388,935	45,827,594	34,965,813							
MAY 1995	281,727	45,841,877	35,117,840	0.3738%	0.3761%	160,775	89,469	(71,306)	1.117081	(79,655)
JUN 1995	404,872	45,729,449	49,140,720	0.8428%	0.8487%	354,948	414,039	59,091	1.092356	64,548
JUL 1995	419,506	45,522,123	58,298,698	0.6100%	0.6146%	252,199	357,049	104,850	1.033838	108,398
AUG 1995	411,638	46,055,138	64,242,176	0.8854%	0.8854%	370,641	569,748	199,107	1.028829	204,847
SEP 1995		46,611,237	58,363,497	0.9215%	0.9215%	405,775	537,341	131,566	1.043193	137,249
OCT 1995		46,506,645	36,801,227	0.8938%	0.8938%	400,103	328,929	(71,174)	1.079088	(76,803)
TOTALS	2,079,305					1,944,441	2,296,575	352,134		358,584

TOTAL OVER/(UNDER) COLLECTION FOR SIX MONTH PERIOD

TOTAL SIX MONTHS REVENUE (COLUMN 3), EXPENSE MONTHS MARCH 1995 THROUGH AUGUST 1995

CORRECTION FACTOR - REDUCTION/(INCREASE)

NOTES:

- Recalculated to reflect -
 - Total Company and Retail Revenues as billed for review period.
 - Only billed Retail Environmental Surcharge Revenues have been excluded from Total Company and Retail Revenues.
- The Surcharge Factor is applied to customer bills in the second month following the month in which costs are incurred.
 - Billed Factor from Monthly ES Form 1.0.
 - Adjusted Factor is Column 2 divided by Column 3, Expense Month amounts.
- Surcharge Revenue Allowed is Retail Revenues divided by Total Company (both for Expense Month, excluding billed Retail Environmental Surcharge), with resulting percentage multiplied by Column 2, Expense Month. See Page 2, Column 7.
- Surcharge Revenue As Billed from Monthly ES Form 3.0.
- Gross-Up Factor is Total Company Revenues divided by Retail Revenues (both for Billing Month, excluding billed Retail Environmental Surcharge). See Page 2, Column 8.
- Total Company Over/(Under) Collection is Column 9 multiplied by Column 10, Billing Month.

358,584
274,870,539
0.130%

APPENDIX A

LOUISVILLE GAS & ELECTRIC COMPANY - ENVIRONMENTAL SURCHARGE - ES FORM 4.0

SIX MONTH REVIEW

RECAP OF BILLING FACTORS AND REVENUE

For the Period March 1995 through August 1995

(1) CURRENT EXPENSE MONTH	(2) TOTAL RETAIL REVENUES EXCLUDE ES Note 1	(3) TOTAL WHOLESALE REVENUES Notes 1, 2	(4) TOTAL COMPANY REVENUES Notes 1, 3	(5) PERCENTAGE RETAIL TO TOTAL COMPANY Note 4	(6) GROSS ENVR SURCHRG REV REQ, E(m)	(7) RETAIL SURCHRG REVENUE ALLOWED Note 5	(8) OVER/(UNDER) COLLECTION GROSS-UP FACTOR Note 6
MAR 1995	36,835,891	2,715,419	39,551,310	93.1344%	172,627	160,775	
APR 1995	34,965,813	3,348,100	38,313,913	91.2614%	388,935	354,948	
MAY 1995	35,117,840	4,111,646	39,229,486	89.5190%	281,727	252,199	1.117081
JUN 1995	49,140,720	4,538,430	53,679,150	91.5453%	404,872	370,641	1.092356
JUL 1995	58,298,698	1,972,723	60,271,421	96.7269%	419,506	405,775	1.033838
AUG 1995	64,242,176	1,852,042	66,094,218	97.1979%	411,638	400,103	1.028829
SEP 1995	58,363,497	2,520,877	60,884,374				1.043193
OCT 1995	36,801,227	2,910,518	39,711,745				1.079088

NOTES:

- Columns 2, 3, and 4 are monthly amounts, rather than 12-month moving averages.
- Total Wholesale Revenues have not been reduced for an environmental surcharge amount. LG&E does not record wholesale environmental surcharge revenues.
- Total Company Revenues reflect the exclusion of retail environmental surcharge amounts.
- Percentage Retail to Total Company is Column 2 divided by Column 4.
- Retail Surcharge Revenue Allowed is Column 6 multiplied by Column 5.
- Gross-Up Factor needed to convert Retail over/(under) collection to Total Company over/(under) collection. Over/(Under) Collection Gross-Up Factor is Column 4 divided by Column 2.